United Nations S/2005/261

Security Council

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19 April 2005

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Draft resolution

The Security Council,

Reaffirming its resolutions 827 (1993) of 25 May 1993, 1166 (1998) of 13 May 1998, 1329 (2000) of 30 November 2000, 1411 (2002) of 17 May 2002, 1431 (2002) of 14 August 2002, 1481 (2003) of 19 May 2003, 1503 (2003) of 28 August 2003 and 1534 (2004) of 26 March 2004,

Having considered the letter from the Secretary-General to the President of the Security Council dated 24 February 2005 (S/2005/127) transmitting the list of candidates for election as ad litem judges of the International Tribunal for the Former Yugoslavia,

Noting that the Secretary-General had suggested that the deadline for nominations be extended until 31 March 2005 and the President's reply of 14 March 2005 (S/2005/159) indicating that the Security Council had agreed to the extension of the deadline,

Having considered also the letter from the Secretary-General to the President of the Security Council dated 11 April 2005 (S/2005/236) that suggested that the deadline for the nomination of candidates for election as ad litem judges be further extended,

Noting that the number of candidates continues to fall short of the minimum number required by the Statute of the Tribunal to be elected,

Considering that the 27 ad litem judges elected by the General Assembly at its 102nd plenary meeting on 12 June 2001 whose term of office expires on 11 June 2005, should be eligible for re-election and wishing to amend the Statute for that purpose,

Noting that, should the cumulative period of service of an ad litem judge of the International Tribunal for the Former Yugoslavia amount to three years or more, this will not result in any change in their entitlements or benefits and, in particular, will not give rise to any additional entitlements or benefits other than those that already exist and which will, in such an eventuality, be extended pro-rata by virtue of the extension of service,

Acting under Chapter VII of the Charter of the United Nations,

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1. *Decides* to amend article 13 ter of the Statute of the International Tribunal for the Former Yugoslavia and to replace that article with the provision set out in the annex to this resolution;

2. *Decides further* to the Secretary-General's letter of 11 April 2005 (S/2005/236) to extend the deadline for nominations of ad litem judges under the amended provision of the Statute for a further 30 days from the date of the adoption of this resolution;

3. *Decides* to remain actively seized of the matter.

Annex

Article 13 ter
Election and appointment of ad litem judges

1. The ad litem judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council in the following manner:

(a) The Secretary-General shall invite nominations for ad litem judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to four candidates meeting the qualifications set out in article 13 of the Statute, taking into account the importance of a fair representation of female and male candidates;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than fifty-four candidates, taking due account of the adequate representation of the principal legal systems of the world and bearing in mind the importance of equitable distribution;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the twenty-seven ad litem judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected;

(e) The ad litem judges shall be declared elected for a term of four years. **They shall be eligible for re-election**.

2. During **any term**, ad litem judges will be appointed by the Secretary-General, upon request of the President of the International Tribunal, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including three years. When requesting the appointment of any particular ad litem judge, the President of the International Tribunal shall bear in mind the criteria set out in article 13 of the Statute regarding the composition of the Chambers and sections of the Trial Chambers, the considerations set out in paragraph 1 (b) and (c) above and the number of votes the ad litem judge received in the General Assembly.

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General Assembly
Security Council

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General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Security Council
Sixtieth year

Letter dated 20 April 2005 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the Secretary-General

In my capacity as the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, I wish to express the Committee's deep concern at Israel's recent activities aimed at expanding its settlements in the Occupied Palestinian Territory.

On 18 April 2005, the Israel Lands Authority announced that tenders had been issued for the construction of 50 homes in the West Bank settlement of "Elkana", south of Qalqilya. Last month, the Israeli Government had made public its intention to construct some 3,500 homes in the area between East Jerusalem and the "Ma'ale Adumim" settlement, effectively cutting off East Jerusalem from the rest of the West Bank. In mid-April, despite international criticism of the renewed settlement activity, construction in "Ma'ale Adumim" was proceeding.

The Committee affirms that, in accordance with Security Council resolution 465 (1980), all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the Palestinian and other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity. The Committee also stresses that Israel's policy and practices of transferring parts of its population into the territory it occupies constitutes a clear violation of article 49 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. Furthermore, this policy precludes the possibility of establishing a viable and contiguous Palestinian State, prejudges the outcome of the final status negotiations and undermines international efforts at achieving a comprehensive, just and lasting peace in the Middle East.

The Committee also reiterates that the continued creation by Israel of facts on the ground contradicts the road map, which obligates the Government of Israel to dismantle settlement outposts and freeze all settlement activity, including the natural growth of settlements. The Committee calls on the Quartet and all other parties

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concerned to urgently intervene in this matter and demand that the Government of Israel immediately comply with its obligations.

I should be grateful if you would have the present letter circulated as a document of the tenth emergency special session of the General Assembly and of the Security Council.

(*Signed*) Paul **Badji**
Chairman
Committee on the Exercise of the
Inalienable Rights of the Palestinian People

United Nations S/2005/263

Security Council

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21 April 2005

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Letter dated 21 April 2005 from the Permanent Representative of Rwanda to the United Nations addressed to the President of the Security Council

I have the honour to refer to Security Council resolution 1596 (2005), in which the Council extended the measures established in its resolution 1493 (2003) to any recipient in the territory of the Democratic Republic of the Congo, and expanded the Group of Experts established pursuant to resolution 1533 (2004) while also extending its mandate to 31 July 2005.

The Government of Rwanda looks forward to working constructively with the Committee in pursuit of the tasks outlined in resolution 1533 (2004) and paragraph 18 of resolution 1596 (2005).

The Government of Rwanda, however, reiterates its concern that the Rwanda section of the last report of the Group of Experts was riddled with glaring inconsistencies, deliberate misrepresentation and innuendo. These concerns have been corroborated by the report of the United Nations independent consultant who reviewed the work of the Group of Experts. He concluded that, in the case of Rwanda, the experts did not conduct a thorough investigation and did not meet their own evidentiary standards in many cases, and engaged in a pattern of misrepresenting facts and situations to support their predetermined findings. He also noted that they inexplicably omitted significant information in reporting specific incidents in order to support a predetermined set of conclusions with respect to Rwanda.

You may recall that, in its response to the report of 4 January 2005 of the Group of Experts, the Government of Rwanda raised serious objections about the fact that it had been denied the right to be heard by the Group. Rwandan Government representatives met only briefly with the Group on 23 November 2004 to discuss procedural issues. It was agreed at that meeting that the Group would provide the Government of Rwanda with a questionnaire covering all the issues on which the Group required information for its report. The Government of Rwanda was, however, surprised and appalled that the Group provided it with the questionnaire only on 10 January 2005, six days after it had submitted its report to the Committee.

The Government of Rwanda believes that the poor methods of work and lack of integrity and transparency that characterized this Group suggest that its appointing authority and the Security Council should take appropriate measures to

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ensure that the mandate assigned to that Group is strictly fulfilled in a professional and non-prejudiced manner.

The Government of Rwanda is dismayed that, while the Council resolution "Demands that all parties and all States cooperate fully with the work of the Group of Experts", it remains silent about the fact that the Group must cooperate with all States, and should exercise the highest standards of integrity, fairness and transparency in conducting its work.

In this respect, we would like to strongly reiterate the request expressed by the Minister for Foreign Affairs and Cooperation of Rwanda in his letter addressed to the Secretary-General on 15 April 2005, that the experts' reports be subjected to an independent and transparent review.

We request that this letter be circulated to the Chairman and all members of the Committee established pursuant to resolution 1533 (2004), and as a document of the Security Council.

(*Signed*) Stanislas **Kamanzi**
Ambassador
Permanent Representative